
STATUTORY INSTRUMENTS

2022 No. 190

The Waste and Agriculture (Legislative Functions) Regulations 2022

PART 2

Waste: retention of legislative functions

CHAPTER 6

Retention of functions from the Waste Framework Directive

Meaning of “waste”

14. In this Chapter, “waste” has the meaning given by Article 3(1) of the Waste Framework Directive.

Power to prescribe criteria for by-products

15.—(1) The appropriate authority may, by regulations, prescribe detailed criteria on the uniform application of the by-product conditions to specific substances or objects.

(2) In paragraph (1), “the by-product conditions” means the conditions set out in paragraph (3) which must be met if a substance or object resulting from a production process, the primary aim of which is not the production of that substance or object, is to be considered to be a by-product and not waste.

(3) The conditions are—

- (a) further use of the substance or object is certain,
- (b) the substance or object can be used directly without any further processing other than normal industrial practice,
- (c) the substance or object is produced as an integral part of a production process, and
- (d) further use of the substance or object is lawful, and for these purposes “lawful” means the substance or object fulfils all relevant product, environmental and health protection requirements for the specific use and will not lead to overall adverse environmental or human health impacts.

(4) In exercising the power in paragraph (1), the appropriate authority must—

- (a) ensure a high level of protection of the environment and human health and facilitate the prudent and rational utilisation of natural resources, and
- (b) prioritise replicable practices of industrial symbiosis.

(5) Regulations under paragraph (1) may modify any subordinate legislation.

Power to prescribe end-of-waste status criteria

16.—(1) The appropriate authority may, by regulations, make provision prescribing detailed criteria on the uniform application of the end-of-waste conditions to specific types of waste.

(2) In paragraph (1), “the end-of-waste conditions” means the conditions set out in paragraph (3) which must be met if waste which has undergone a recycling or other recovery operation is to be considered to have ceased to be waste.

(3) The conditions are—

- (a) the substance or object is to be used for specific purposes,
- (b) a market or demand exists for such a substance or object,
- (c) the substance or object fulfils the technical requirements for the specific purposes and meets the existing legislation and standards applicable to products, and
- (d) the use of the substance or object will not lead to overall adverse environmental or human health impacts.

(4) In exercising the power in paragraph (1), the appropriate authority must—

- (a) ensure a high level of protection of the environment and human health and facilitate the prudent and rational utilisation of natural resources, and
- (b) include provision in relation to—
 - (i) permissible waste input material for the recovery operation,
 - (ii) permissible treatment processes and techniques,
 - (iii) quality criteria for end-of-waste materials resulting from the recovery operation in line with the applicable product standards, including limit values for pollutants where necessary,
 - (iv) requirements for management systems to demonstrate compliance with the end-of-waste conditions, including criteria for quality control and self-monitoring, and accreditation, where appropriate, and
 - (v) a requirement for a statement of conformity.

(5) The provision which may be made under paragraph (1) includes modifying—

- (a) Council [Regulation \(EU\) No 333/2011](#) establishing criteria determining when certain types of scrap metal cease to be waste under [Directive 2008/98/EC](#) of the European Parliament and of the Council⁽¹⁾;
- (b) [Commission Regulation \(EU\) No 1179/2012](#) establishing criteria determining when glass cullet ceases to be waste under [Directive 2008/98/EC](#) of the European Parliament and of the Council⁽²⁾;
- (c) [Commission Regulation \(EU\) No 715/2013](#) establishing criteria determining when copper scrap ceases to be waste under [Directive 2008/98/EC](#) of the European Parliament and of the Council⁽³⁾.

(6) Regulations under paragraph (1) may modify any subordinate legislation.

(7) In this regulation, “recovery”, “recycling” and “treatment” have the meanings given by Article 3 of the Waste Framework Directive.

(1) EUR 333/2011, as amended by [S.I. 2019/620](#), [2020/1540](#).

(2) EUR 1179/2012, as amended by [S.I. 2019/620](#), [2020/1540](#).

(3) EUR 715/2013, as amended by [S.I. 2019/620](#), [2020/1540](#).

Power to specify the application of the formula for incineration facilities

17.—(1) The appropriate authority may, by regulations, make provision specifying the application of the formula for incineration facilities referred to in point R1 of Annex 2 (recovery operations) to the Waste Framework Directive.

(2) The provision which may be made under paragraph (1) includes—

- (a) modifying provision corresponding to that made by point R1 of Annex 2 to the Waste Framework Directive;
- (b) requiring a reference to point R1 of Annex 2 to the Waste Framework Directive (or a reference which encompasses that point) to be read as a reference to that point with modifications.

(3) In exercising the power in paragraph (1), the appropriate authority may take into account local climatic conditions, including the severity of the cold and the need for heating, to the extent that those conditions influence the amounts of energy that can be used or produced in the form of electricity, heating, cooling or processing steam.

(4) Regulations under paragraph (1) may modify any subordinate legislation.